

## **VARIANCES AND EXCEPTIONS**

### **SECTION 10-1 VARIANCES AND EXCEPTIONS**

#### **10-101.**

a. Whenever the Planning Commission deems full conformance to provisions of these regulations is impractical or impossible due to the size, shape, topographic location or condition, or such usage of land included in a subdivision plat being presented for approval, the Planning Commission may recommend variances or exceptions of these regulations in the final plat. Such recommendation shall intend that substantial justice may be done and the public interest be secured. Such Planning Commission recommendation for authorization of variances or exceptions shall be made by letter of transmittal to the Governing Body. In recommending such variances or exceptions, the Planning Commission must find:

1. That there are special circumstances or conditions affecting the property;
2. That the variances or exceptions are necessary for the reasonable and acceptable development of the property in question; and
3. That the granting of the variances or exceptions will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

b. Such request for exception shall be approved or disapproved by the Governing Body after its consideration of the recommendation of the Planning Commission. The decision of the Governing Body shall be transmitted in writing to the subdivider and the Planning Commission.

### **SECTION 10-2 CLUSTER HOUSING**

**10-201.** The concept of clustering of lots by grouping building sites close together to allow for communal open space and economics in development, may be allowed for new subdivision developments provided that the following stipulations are followed in addition to the normal platting requirements.

a. Definition. Cluster. The grouping together of a series of residential lots on only a portion of a larger tract. Each individual lot may be of less area than required by the district in which it is located, but the average density of the entire tract must meet or exceed the district regulations.

b. Where allowed. Any new subdivision of land, in any residential district may employ the concept of cluster housing when submitting a plat for subdividing.

c. Common open space. The land set aside and not used for individual lots or public streets shall be for the use and enjoyment of all residents of the subdivision and shall be preserved and maintained.

d. Maintenance agreement. All common open space shall be jointly owned by the owners of the individual lots and agreements setting forth the responsibilities of maintaining such open space and facilities shall be filed with the subdivision application and recorded with the Lyon County Register of Deeds upon approval of the plat. All such agreements shall be in accordance with K.S.A. 58-3101 *et seq.*

e. Lot reduction. Individual lots shall not be reduced to less than fifty (50) percent

of the area required by the zoning district in which the subdivision is located, the lot width shall not be reduced to less than forty-five (45) feet.

f. All other subdivision and zoning regulations shall apply.